

## CONTENT AREA

Health Insurance Portability and Accountability Act (HIPAA) – Physician Statements

## ISSUE/QUESTION

A state agency has a light duty policy, which applies to workers compensation issues and to non-work related injuries or illnesses. If the limitation is expected to be 10 working days or less, an employee submits a physician's statement, including a description of limitations, to the supervisor. If the limitation is expected to be in effect more than 10 working days, the employee and physician must complete a Medical Evaluation Form, which includes a diagnosis and prognosis. In either event, if light duty work assignments are not available within the employee's regular work unit, the information is submitted to the agency's Staffing Unit for possible light duty assignments within other divisions and the Staffing Unit monitors the light duty assignment.

Is the physician's statement governed by HIPAA ?

## ANSWER

No, from an employer perspective, the physician's statement is not governed by HIPAA because

1. All employment-related information is not subject to HIPAA.
2. All workers compensation issues are considered employment related.
3. Light-duty searches and assignments are also considered employment related.

However, from the physician perspective, the physician's statement is governed by HIPAA and, therefore, the physician must obtain HIPAA privacy release authorization from the patient-employee prior to providing the employer with the statement.

## AUTHORITY

Health Insurance Portability and Accountability Act (HIPAA) 1996 - Title II, Administrative Simplification effective 04/14/03

## ISSUED

May 23, 2003